

Department of Energy

§ 820.40

this information shall be communicated promptly to the Docketing Clerk and all participants to the proceeding. A person who fails to furnish such information and any changes thereto shall be deemed to have waived his right to notice and service under this part.

(5) The Docketing Clerk may refuse to file any document that does not comply with this section. Written notice of such refusal, stating the reasons therefor, shall be promptly given to the person submitting the document. Such person may amend and resubmit any document refused for filing.

§ 820.37 Participation in an adjudication.

(a) *Parties.* In an enforcement adjudication, the Director and the respondent shall be the only parties; provided that the Presiding Officer may permit a person to intervene as a party if the person demonstrates it could be liable in the event a civil penalty is assessed.

(b) *Appearances.* Any party to an enforcement adjudication may appear in person or by counsel or other representative. A partner may appear on behalf of a partnership and an officer may appear on behalf of a corporation. Persons who appear as counsel or other representative must conform to the standards of conduct and ethics required of practitioners before the courts of the United States.

(c) *Amicus Curiae.* Persons not parties to an enforcement adjudication who wish to file briefs may so move. The motion shall identify the interest of the person and shall state the reasons why the proposed amicus brief is desirable. If the motion is granted, the Presiding Officer shall issue an order setting the time for filing such brief. An *amicus curiae* is eligible to participate in any briefing after his motion is granted, and shall be served with all briefs, reply briefs, motions, and orders relating to issues to be briefed.

§ 820.38 Consolidation and severance.

(a) *Consolidation.* The Presiding Officer may, by motion or *sua sponte*, consolidate any or all matters at issue in two or more enforcement adjudications under this part where there exists common parties or common questions of

fact or law, consolidation would expedite and simplify consideration of the issues, and consolidation would not adversely affect the rights of parties engaged in otherwise separate adjudications.

(b) *Severance.* The Presiding Officer may, by motion or *sua sponte*, for good cause shown order any enforcement adjudication severed with respect to any or all parties or issues.

§ 820.39 Motions.

(a) *General.* All motions in an enforcement adjudication except those made orally, shall be in writing, state the grounds therefor with particularity, set forth the relief or order sought, and be accompanied by any affidavit, certificate, other evidence, or legal memorandum relied upon.

(b) *Answer to motions.* Except as otherwise specified by a particular provision of this part or by the Presiding Officer, a party shall have the right to file a written answer to the motion of another party within 10 days after the filing of such motion. The answer shall be accompanied by any affidavit, certificate, other evidence, or legal memorandum relied upon. If no answer is filed within the designated period, the party may be deemed to have waived any objection to the granting of the motion. The Presiding Officer may set a shorter or longer time for an answer, or make such other orders concerning the disposition of motions as he deems appropriate.

(c) *Decision.* The Presiding Officer shall rule on a motion as soon as practicable after the filing of the answer. The decision of the Presiding Officer on any motion shall not be subject to administrative appeal.

Subpart C—Compliance Orders

§ 820.40 Purpose and scope.

This subpart provides for the issuance of Compliance Orders to prevent, rectify or penalize violations of the Act, a Nuclear Statute, or a DOE Nuclear Safety Requirement and to require action consistent with the Act, a Nuclear Statute, or a DOE Nuclear Safety Requirement.